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Senator Stennis Civil Rights Correspondence B03F21L02

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APR 20 1965

Honorable John Stennis
United States Senate
Washington, D. C.

Dear Senator Stennis:

The Attorney General has asked me to thank you for and acknowledge your letter of April 13, 1965 regarding Dr. Martin Luther King's statements concerning an economic "boycott" of Alabama products.

As we understand it, this appeal for a boycott of Alabama products envisions a three-stage program. As described in the New York Times of April 3, 1965, the three stages are:

1. Suspension of all plant expansion and location in Alabama, and vigorous Federal enforcement of Title VI of the 1964 Civil Rights Act.
2. Examination by private institutions, churches, and labor unions of their investment and pension funds to make certain they are not used to support "racism and brutality in Alabama," and withdrawal of all Federal tax dollars deposited in Alabama banks.
3. "An organized boycott of specific consumer goods selected by a committee within the (Southern Christian Leadership) Conference."

According to our information, the program will not proceed beyond the first or second stage except under certain circumstances.

Even if it were assumed that the boycott appeal would eventually be made, it is unclear at the moment how it is to be effectuated and who the participants may be. Thus we have an insufficient factual basis for assessing the legal consequences of the program at the present time.

If the appeal takes the form of a request for individual voluntary refusal to purchase goods by consumers at the retail level for the purpose of securing an ideological or moral goal, we have considerable doubt that the courts would extend the applicability of the antitrust laws to incorporate such an activity. As you know, those laws are directed primarily at attempts to eliminate competition or control prices for commercial gain. I do want to emphasize, however, that no set of facts would automatically insulate every participant in such an activity from the scope of the antitrust laws. If the appeal results in commercial abuses by particular individuals, groups or corporations in violation of the Sherman antitrust act, the Division would, of course, apply its normal prosecutory criteria.

Finally, I am sure that you are aware that the antitrust laws provide for private, as well as government enforcement, and enable any injured party to recover treble damages arising from any violation of such laws. Thus individuals who disagree with our interpretation of the law are not without means of redress.

I trust that this information will be of assistance to you.

Sincerely yours,

WILLIAM H. ORRICK, JR.
Assistant Attorney General
Antitrust Division